

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Misc.No.7808-M of 2006

Date of Decision: March 14, 2007

Gurcharan Singh

...Petitioner

VERSUS

Jiwan Lal and others

...Respondents

CORAM: HON'BLE MR.JUSTICE RANJIT SINGH

Present: Mr.Sarjit Singh, Senior Advocate with
Mr.Vikas Singh, Advocate,
for the petitioner.

Mr.M.K.Singla, Advocate,
for the respondent Nos.1 to 4.

The petitioner has challenged the order dated 31.5.2005 passed by S.D.M.Barnala and order dated 6.1.2006 passed by Addl.Sessions Judge, Barnala. The petitioner, being aggrieved against the proceedings initiated by S.D.M.Barnala under Sections 145/146 Cr.P.C., has filed the present petition.

S.D.M.Barnala appointed Naib Tehsildar, Dhanaula as official receiver in respect of the land in dispute. This order is passed on the Calendra prepared by Kuldeep Singh, SHO, Police Station, Dhanaula. The dispute had arisen between the parties over thirteen acres of agriculture land, situated in the revenue estate of village Badbar. This Calendra led to passing of the order by the S.D.M. The same was impugned before the Addl.Sessions Judge, Barnala,

who, on 4.1.2005 came to hold that S.D.M. had not passed a speaking order. He further found that the dispute was already pending before the civil court and as such it would not be desirable to continue with these proceedings. He accordingly set-aside the order of the S.D.M. Though the proceedings were brought to an end, but still the present petitioner moved an application on 13.3.2005 before the S.D.M. with the grievance that no possession of the land in dispute was ordered to be given to Gurcharan Singh. The S.D.M., while relying on decree dated 15.3.2005 passed by Civil Judge (Junior Division), Barnala found that Jiwan Lal, Romi Goyal and Mahesh Goyal had been declared owners in possession to the extent of half share each. He, thus, sent a copy of this order to the receiver for giving them the possession accordingly. This order was again challenged by Gurcharan Singh before Addl.Sessions Judge, Barnala, who dismissed the revision by observing that no infirmity is pointed out in the impugned order. These two orders have now been challenged in the present petition.

Mr.Sarjit Singh, the learned Senior counsel mainly submitted that S.D.M.Barnala could not have passed the impugned order, when the proceedings had been brought to finality in view of the order passed on 4.1.2005 by Addl.Sessions Judge, Barnala. The proceedings under Section 145/146 Cr.P.C. were held to be not maintainable in view of the pendency of the civil suit. Mr.M.K.Singla, the learned counsel for the respondents, however, would point out that the petitioner cannot be permitted to so urge. As per him, the application leading to the impugned order being passed, was moved by the petitioner himself. He cannot now be heard to say that it was

not within the jurisdiction of the S.D.M. to pass the impugned order. Jurisdiction having first been invoked by the petitioner himself, he cannot now be permitted to challenge the same on the ground that the application was wrongly entertained when he finds that the order has gone against him. Even otherwise, no such grounds are taken by him either before the Revisional Court or otherwise. No case for interference is made out.

The present petition is dismissed.

March 14, 2007
ramesh

(RANJIT SINGH)
JUDGE